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| APPLICATION NO.          | Ft                    | LING DATE     | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |  |
|--------------------------|-----------------------|---------------|----------------------|---------------------|------------------|--|
| 09/657,154               | 09/657,154 09/07/2000 |               | Shun Nakamura        | K6510.0055/P055     | 9966             |  |
| 24998                    | 7590                  | 06/01/2005    |                      | EXAM                | EXAMINER         |  |
| DICKSTEI<br>2101 L Stree |                       | RO MORIN & OS | NGUÝE                | NGUÝEN, KIM T       |                  |  |
| Washington,              | •                     | 37            | ART UNIT             | PAPER NUMBER        |                  |  |
|                          |                       |               |                      | 3713                |                  |  |

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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|  | Application No.   | Applicant(s)   |  |  |  |  |  |  |
|--|---|--|--|--|--|--|--|--|
| Office Action Comments   | 09/657,154  | NAKAMURA ET AL.  |  |  |  |  |  |  |
| Office Action Summary  | Examiner  | Art Unit   |  |  |  |  |  |  |
|  | Kim Nguyen  | 3713   |  |  |  |  |  |  |
| The MAILING DATE of this communication app<br>Period for Reply   | The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply  |  |  |  |  |  |  |  |
| A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply If NO period for reply is specified above, the maximum statutory period we Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b). | 86(a). In no event, however, may a reply be time within the statutory minimum of thirty (30) days will apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE | nely filed s will be considered timely. the mailing date of this communication. O (35 U.S.C. § 133). |  |  |  |  |  |  |
| Status   |   |  |  |  |  |  |  |  |
| 1) Responsive to communication(s) filed on 10 M  | arch 2005.  |  |  |  |  |  |  |  |
| 2a) This action is <b>FINAL</b> . 2b) This   |   |  |  |  |  |  |  |  |
| 3) Since this application is in condition for allowar  | 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is  |  |  |  |  |  |  |  |
| closed in accordance with the practice under E   | x parte Quayle, 1935 C.D. 11, 45  | 3 O.G. 213.  |  |  |  |  |  |  |
| Disposition of Claims  |   |  |  |  |  |  |  |  |
| 4)⊠ Claim(s) <u>8-16,18-21,38-40 and 44-49</u> is/are pending in the application.  |   |  |  |  |  |  |  |  |
| 4a) Of the above claim(s) is/are withdrawn from consideration.   |   |  |  |  |  |  |  |  |
| 5) Claim(s) is/are allowed.  |   |  |  |  |  |  |  |  |
| 6) Claim(s) is/are rejected.   | , , <u> </u>  |  |  |  |  |  |  |  |
| 7) Claim(s) is/are objected to.  |   |  |  |  |  |  |  |  |
| 8) Claim(s) <u>8-16, 18-21, 38-40 and 44-49</u> are sub  | ject to restriction and/or election   | requirement.   |  |  |  |  |  |  |
| Application Papers   |   |  |  |  |  |  |  |  |
| 9) The specification is objected to by the Examine   | r.  | •  |  |  |  |  |  |  |
| 10) The drawing(s) filed on is/are: a) acce  |   | Examiner.  |  |  |  |  |  |  |
| Applicant may not request that any objection to the  | drawing(s) be held in abeyance. See   | e 37 CFR 1.85(a).  |  |  |  |  |  |  |
| Replacement drawing sheet(s) including the correct   | ion is required if the drawing(s) is obj  | ected to. See 37 CFR 1.121(d).   |  |  |  |  |  |  |
| 11)☐ The oath or declaration is objected to by the Ex  | aminer. Note the attached Office  | Action or form PTO-152.  |  |  |  |  |  |  |
| Priority under 35 U.S.C. § 119   |   |  |  |  |  |  |  |  |
| 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of:   |   |  |  |  |  |  |  |  |
| 1. Certified copies of the priority documents have been received.  |   |  |  |  |  |  |  |  |
| 2. Certified copies of the priority documents have been received in Application No   |   |  |  |  |  |  |  |  |
| 3. Copies of the certified copies of the prior   | 3. Copies of the certified copies of the priority documents have been received in this National Stage   |  |  |  |  |  |  |  |
| application from the International Bureau  | application from the International Bureau (PCT Rule 17.2(a)).   |  |  |  |  |  |  |  |
| * See the attached detailed Office action for a list of the certified copies not received.   |   |  |  |  |  |  |  |  |
|  |   |  |  |  |  |  |  |  |
|  |   |  |  |  |  |  |  |  |
| Attachment(s)  1) Notice of References Cited (PTO-892)   | 4) Interview Summary  | (PTO_413)  |  |  |  |  |  |  |
| 2) Notice of Praftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Da   | ate  |  |  |  |  |  |  |
| 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)   | 5) Notice of Informal P   | atent Application (PTO-152)  |  |  |  |  |  |  |
| Paper No(s)/Mail Date  | o/  |  |  |  |  |  |  |  |

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## Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

- Species 1: Figs. 8A-8C, claims 8-16, 18-19, 21 and 38-40, drawn to providing moving command marks.
- Species 2: Fig. 16, claim 20, drawn to a specific pose as an operation command.
- Species 3: Fig. 12, claims 44-49, drawn to providing commands in accordance with a rhythm of music.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent

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form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

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Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

- 2. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
- 3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Nguyen whose telephone number is 571-272-4441. The examiner can normally be reached on Monday-Thursday during business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai, can be reached on 571-272-7147. The

central official fax number for the organization where this application or proceeding is assigned is 703-872-9306.

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Date: May 27, 2005

Kim Nguyen

Primary Examiner

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